IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 175 OF 2004

Devandrasinh Kalidas Desai and Ors. ..Petitioners

Versus

The Administrator of Union and Ors. ... Respondents.

Mr. Sandesh D. Patil for the petitioners.
Mr. D.A. Dube, instructed by Mr. S.S. Sarkar, for respondent No.1.
Mr. G.S. Kulkarni for respondent Nos. 2 and 3.

CORAM: **DALVEER BHANDARI, C.J.** &
S.J. VAZIFDAR, J.

DATE: **JUNE 22, 2005**.

P.C.

The petitioners are the villagers residing at Naroli, Dadra and Nagar Haveli. The petitioners stated that they are interested in the upliftment of the village Naroli and they have filed this petition in the public interest.

3. The petitioners have filed this petition with the prayers that the notification dated 28th January, 2003 issued by the Town and Country Planning Department, Silvassa, be quashed and set aside and

respondents be directed to create a by-pass road from National Highway No.8 towards Silvassa from outside Village Naroli and further consider the representation/objection/submissions of the petitioners/villagers and the respondents be further directed to make necessary changes in the width of the road.

4. Pursuant to the show cause notice issued by this Court to the respondents, the Associate Town Planner, Dadra and Nagar Haveli, has filed affidavit. It is submitted that this Public Interest Litigation is per se not maintainable and is an abuse of the process of this Court. It is stated that road widening work undertaken by the respondents regarding the State Highway i.e. Silvassa-Naroli Road is in public interest. In reply it is mentioned that the right of ways for the whole territory has been classified as State Highway, Major District Road, Other District Road, Village Road and Urban Arterial Roads based on a survey conducted by a team of experts from the School of Planning & Architecture, New Delhi. Based on the report and the traffic forecasting on the various roads, this subject road was declared as a State Highway with a right of way of 45 metres outside the Gaunthan (village) area and 30 mtrs. Within the Gaunthan (village) area. This

was notified in 1999 after inviting public objections and suggestions. The written objections and suggestions were thereafter scrutinized and examined by a Committee chaired by the Collector, Dadra and Nagar Haveli before it was finally notified on 3rd March, 1999. It was submitted in reply that the Administration had declared the right of way for all roads in the year 1999 and at present due to heavy traffic congestion this road has been taken up for road widening.

5. It is also mentioned that there is sufficient traffic on the said road with lots of huge tankers, containers, buses, private vehicles, etc. are plying. Therefore, in the large public interest this project of road widening was undertaken.

6. The learned counsel for respondent Nos. 2 and 3 specifically submitted that this is not a bona fide petition and has been filed for achieving personal interest of the petitioners. It is in fact a private interest litigation filed in the cover of Public Interest Litigation. In support of their submission, the respondents had drawn our attention to the representation sent by the citizens of village Naroli to the Administrator wherein it is mentioned, inter alia, as under:

> " Our properties mainly residential houses, shops and school are situated on above named road and we are residing in said houses ever before the liberation of Dadra and Nagar Haveli. If the road widening work will be taken as per published notification (as per column C) then our properties shall be destroyed."

7. It was submitted by the respondents that when the petitioners could not achieve their object of stopping the project, they tried to create obstruction by filing the present Public Interest Litigation.

8. We have heard the learned counsel for the parties. In this matter, objections and suggestions were invited by way of public notice way back in 1999. The petitioners and others had full opportunity of filing objections. These petitioners, in fact, pointed out their difficulties. When the petitioners utterly failed in achieving their object, now after a lapse of five years when the project is in progress, they have chosen to file this petition giving the colour of public interest to this petition. There is no explanation of undue and long delay in filing this Public Interest Litigation.

9. In our considered view, this Public Interest petition is an abuse of the process of law. We deprecate this tendency. Consequently, this PIL is dismissed with costs of Rs.5,000/-. Costs to be paid to the office of the Administration of Dadra and Nagar Haveli, within two weeks. This petition being devoid of any merit and bona fide is accordingly dismissed.

CHIEF JUSTICE

S.J. VAZIFDAR, J.